

SEATAC CITY COUNCIL REGULAR MEETING MINUTES

April 27, 2004
7:00 PM

City Hall
Council Chambers

CALL TO ORDER: The SeaTac City Council Regular Council Meeting was called to order by Mayor Frank Hansen at 7:26 p.m.

COUNCIL PRESENT: Mayor Frank Hansen, Deputy Mayor Terry Anderson, Councilmembers Gene Fisher, Chris Wythe, Ralph Shape, Joe Brennan, and Don DeHan.

ADMINISTRATIVE STAFF: Bruce Rayburn, City Manager; Judith Cary, City Clerk; Mary Mirante Bartolo, City Attorney; Bob Meyer, Fire Chief; and Scott Somers, Chief of Police Services.

Mayor Hansen stated that due to the Study Session's (SS) lengthy items of discussion, the RCM was delayed until 7:26 p.m.

PUBLIC COMMENTS: Joe Dixon, 19211 35th Avenue South, complimented the City Manager on the "City Manager's Weekly Update" on the City's web site. He stated that this is an excellent way for the public to keep apprised of issues in the City. He suggested that the next issue of the SeaTac Report point out this update.

PRESENTATION:

•Library Advisory Committee Annual Report

City Clerk's Office Administrative Assistant II Marcia Rugg, Library Advisory Committee Staff Liaison, introduced Chair Jackie Krutz, stating that Mrs. Krutz has been the Library Advisory Committee Chair for 12 years. Mrs. Krutz addressed the following items: 1) introduced the two newest board members, Peter Kiewit IV and Marion Henry; 2) read the committee's mission statement; 3) King County Library System's (KCLS) circulation is third in the nation; 4) new library to open at Southcenter Mall May 5 or 6. The hours will be the same as the mall hours. Valley View Library's (VVL) Managing Librarian is also in charge of this new library; 5) book sale to be held at the VVL on Saturday, May 22 from 10 a.m. until 4 p.m.; 6) Paul Allen Foundation has given \$50,000 to support the library connection at Southcenter; and 7) the KCLS is giving \$50,000 to encourage children's reading; and the committee will again participate in the International Festival Parade this year.

Upon a question by Deputy Mayor Anderson, Mrs. Krutz stated that there are several sections in the VVL that are bilingual.

Councilmember Shape thanked Mrs. Krutz for her years of service. He questioned whether there are any projects proposed for VVL in the upcoming library bond issue. Mrs. Krutz stated that this new bond does not propose any big projects for VVL, but Bill Potasick, head of the KCLS would like to present the specifics of the bond issue to Council at a future meeting.

CONSENT AGENDA:

- Approval of claims vouchers** in the amount of \$704,374.02 for the period ended April 20, 2004.
- Approval of employee vouchers** in the amount of \$413,625.09 for the period ended April 15, 2004.
- Approval of summary of \$5,000 - \$25,000 purchase requests** for the period ended April 23, 2004.

Approval of Council Meeting Minutes:

- Study Session** held April 13, 2004.
- Regular Council Meeting** held April 13, 2004.

Acceptance of Advisory Committee Minutes:

- Planning Commission Meeting** held March 22, 2004 (Commission approved April 19, 2004).

The following Agenda were recommended at the April 27, 2004 Study Session for placement on this Consent Agenda:

Agenda Bill #2425

A Motion authorizing the City Manager to enter into a Contract with Rabanco LTD, DBA SeaTac Disposal Company for Comprehensive Garbage Recyclables and Yard Debris Collection Services for the City of SeaTac Residences and Businesses

Summary: It is proposed that the City enter into a ten year contract with Rabanco LTD, DBA SeaTac Disposal Company for Comprehensive Garbage, Recyclables and Yard Debris Collection Services for SeaTac residences and businesses. The contract service area would be the incorporated boundaries of SeaTac. Waste Management and Rabanco, who both currently serve the City, will trade territories resulting in a single contractor (Rabanco)

CONSENT AGENDA (Continued):

Agenda Bill #2425 (Continued): providing service within the City. Entering into the contract will also eliminate the Washington Utilities and Transportation Commission (WUTC) control on rates and service provided by the waste haulers within the City.

Since incorporation, the City has been trying to determine how best to assume the responsibilities for regulating solid waste collection services within the City. The primary problem was determining if the WUTC would continue to regulate the waste haulers serving the City during the transition period. Finally, without a resolution to this issue, Council passed an Ordinance on June 25, 2002 granting franchises to both Waste Management and Rabanco. The date of these franchises was retroactive to the date of incorporation. At the time of incorporation, the WUTC certificated hauler was able to continue service within the City for a transition period of an additional five years from the date of incorporation. In June 2002, when the franchises were granted, that time had been increased to seven years.

After the franchises were issued, the staff was still concerned that any attempt by the City to cancel the franchises during or after the five or seven year grace period would lead to litigation. Further, it was unclear if the grace period would be five years starting at the date of incorporation or seven years starting from the actual date the franchises were issued. However, prior to giving notice of termination of the franchise, the haulers inquired if the City would be interested in negotiating a contract with either of them. City staff responded in the affirmative. In order for this to happen, the haulers would need to negotiate an equitable trade of territory among their service territories. This was accomplished and the City entered into negotiations with Rabanco earlier this year.

Staff previously briefed the Council in September 2003 on garbage service issues and was provided direction on what issues should be addressed in a solid waste collection contract. The following is a summary of those issues: 1) rates based upon cost of service; 2) a 25 percent discount provided for low income seniors and disabled residents on residential service except for mini-cans; 3) recycling continuing to be imbedded in the garbage rate for single family and multi-family residential; 4) garbage service mandatory for multi-family residential and commercial businesses 5) single family residence occupants get to choose whether or not to have garbage service; 6) yard debris service available to all customers as an additional service; 7) recycling available to commercial customers as an additional service; 8) rates include an administrative fee for the City to administer the contract; 9) rates are higher than Rabanco's current rates. However, they are less than expected rates to be approved by the WUTC and current Waste Management rates; and 10) contract contains a "No Strike" provision to prevent disruption of service.

If Council chooses to approve the motion to award the contract at the April 27 Regular Council Meeting (RCM), then service governed by the contract would be initiated on June 1, 2004. If the Council chooses to schedule action on the motion at the May 11 RCM, then implementation of service would begin July 1, 2004.

By replacing the WUTC franchise with a contract for waste collection services, City staff will have more direct involvement in responding to waste collection issues and complaints. Therefore, the rate that customers will be charged includes an administrative fee that will be paid to the City by Rabanco on the first of each month. Initially the Contractor will pay the City an administrative fee of \$5,000 a month for a total of \$60,000 per year. This fee will be adjusted annually based upon changes in the Consumer Price Index.

Agenda Bill #2426; Ordinance #04-1007

An Ordinance adopting a New Chapter 7.40 to the SeaTac Municipal Code (SMC), related to Garbage Regulations and proscribing Penalties, and repealing Section 12.15.030 of the SMC relating to Solid Waste

Summary: This Ordinance: 1) creates a new section 7.40 of the SMC related to garbage regulations to provide consistency with the garbage contract with Rabanco LTD, DBA SeaTac Disposal Company; 2) establishes regulations for the disposal of garbage, recyclables, and yard waste, including the prevention of garbage contamination of recyclables and yard debris; 3) regulates the weight and condition of garbage containers, consistent with the terms of the garbage contract; 4) requires multi-family complexes to have garbage service, and establishes minimum service levels for these complexes; 5) provides that that garbage Contractor has exclusive rights to collect garbage in the City; 6) allows Code Enforcement to enforce the proposed regulations through the

CONSENT AGENDA (Continued):

Agenda Bill #2426; Ordinance #04-1007 (Continued): Notice and Order procedures set forth in SMC 1.15; and 7) repeals that section of the SMC which adopts King County Code (KCC) section 10.04 as it is inconsistent with the new regulations and the collection contract.

The City adopted SMC 12.15.030 in 1990, which incorporated by reference KCC 10.04, establishing a solid waste code. The current solid waste code is inadequate and inconsistent with the garbage contract because it does not address issues such as co-mingling of garbage with yard debris and recyclables, and minimum service levels for multi-family complexes. Furthermore, the current code does not specify that the garbage collection company has exclusive rights to collect garbage throughout the City, which is one of the terms of the garbage contract. The City's garbage regulations should be consistent with the terms of the contract.

Agenda Bill #2419

A Motion rejecting the Apparent Low Bid and authorizing the City Manager to execute a Contract with the Lowest Responsible and Responsive Bidder for the International Boulevard (IB) Phase IV Improvement Project (South 200th Street to South 216th Street)

Summary: The project was advertised for bids between March 1 and March 26, 2004. The bid opening was on held March 26 and the Engineer's estimate was \$10,085,021. Four bids were received. Mid Mountain Contractors, Inc., formerly Volker Stevin Pacific, was the apparent low bidder with a total bid of \$9,497,631.85 which was corrected for a \$254,306.30 mathematical error. However, Mid Mountain was found to be not responsible and their bid non-responsive. The next low bid was Gary Merlino Construction Company, Inc. with a total bid of \$9,777,791, three percent below the Engineer's estimate.

CH2M Hill designed the project and prepared the bid documents. The project consists of new curb, gutter, sidewalks, street trees, landscaped median, street illumination, underground utilities, improved storm drainage, upgraded traffic signalization at South 208th Street and a new traffic signal at South 204th Street. The new roadway section will consist of two through lanes each way and a southbound HOV lane. The contract also includes work for the Midway Sewer District and the Washington State Department of Transportation (WSDOT). Approximately 600 feet of new sanitary sewer pipe will be installed in IB just south of South 204th Street to replace a failing line to the east of the IB corridor. The sewer district will reimburse the City for the additional work per the terms of a Memorandum of Understanding (MOU). The profile of IB will be raised a maximum of three feet just north of South 208th Street to facilitate the future SR 509 undercrossing. The WSDOT will reimburse the City per the terms of an Interlocal Agreement (ILA). The contract specifies the work shall be done within two years.

According to the contract specifications, Section 1-02.13, a proposal may be considered irregular and rejected if any of the unit prices are excessively unbalanced to the potential detriment of the City. Mid Mountain's bid for Temporary Pavement was only \$28,885 compared to the average amount of the other bidders of \$331,215. Based on their own assigned cost information, Mid Mountain will not be able to cover its costs to perform this work item. At this significantly low unit bid price, it is expected that the contractor would be reluctant to perform this work in accordance with the specifications that is necessary to maintain through traffic and business access. If the Temporary Pavement item were to significantly under run or over run the bid quantity, the City would be exposed to a re-negotiation of the bid price. Furthermore, if this single bid item was the average of the other three bids, Mid Mountain's total bid would not be the lowest bid.

Section 1-02.14 lists criteria available to deem a contractor not responsible and reject their bid. An unsatisfactory performance record on past City projects is among the criteria. Mid Mountain was the contractor on the IB Phase I Project doing business as Volker Stevin Pacific at that time. During that project, Mid Mountain's performance was below satisfactory. They had disputes with subcontractors, did not place a high priority on traffic control, public and worker safety, were uncooperative in regards to clean up, were inefficient in scheduling crews and materials and did not complete the work on time.

Under the same contract provision, a bidder may be deemed not responsible and their bid rejected if the bidder failed to settle bills for labor or materials on past contracts. On Phase I, a hauling subcontractor had to sue to force Mid Mountain to meet their subcontract obligations.

CONSENT AGENDA (Continued):

Agenda Bill #2419 (Continued): The SMC contains provisions a bidder must meet in order to qualify as the lowest responsible bidder. The bid price, character, integrity, reputation, judgment, efficiency and quality of performance of previous contracts all must be considered. In addition to the Phase I performance problems noted above, Mid Mountain filed suit against the City. Although settled prior to trial for an amount less than demanded by Mid Mountain, the City had to secure outside legal representation and spend costly staff time evaluating Mid Mountain's claims. Other local agencies have rejected Mid Mountain bids as not responsible and non-responsive. The City of Bellevue rejected a Mid Mountain bid in July 2001 due to their dissatisfaction with Mid Mountain's quality of performance on previous contracts. Specifically, problems experienced with Mid Mountain included failure to follow inspection procedures, disregard for environmental stewardship, damage to a gas line and various safety concerns. In May 2002, the City of Burien rejected a Mid Mountain bid on the basis Mid Mountain was found not to be a responsible low bidder.

The lowest responsible and responsive bidder, Gary Merlino Construction, has satisfactorily completed a number of City projects.

Based on failure to meet criteria of the contract provisions and the SMC, it is recommended that Council reject Mid Mountain Contractor's bid because it is not responsible and non-responsive. Furthermore, it is recommended that Council move to authorize the City Manager to execute a contract with Gary Merlino Construction Company, Inc. in the amount of \$9,777,791 for all Bid Schedules A through F and authorize a 10 percent contingency of \$977,779 for a total contract budget of \$10,755,570.

The total construction cost, including construction contract, contingency, material testing, additional inspection time and electric underground conversion is \$11,592,384. The majority of the project is to be funded by a State Transportation Improvement Board (TIB) grant.

MOVED BY DEHAN, SECONDED BY ANDERSON TO ACCEPT THE CONSENT AGENDA AS PRESENTED.

MOTION CARRIED WITH BRENNAN ABSTAINING FROM THE VOTE.

NEW BUSINESS:

•Discussion of Council Meeting Procedures:

Councilmember Brennan stated his objection to passage of SS items going directly on the RCM Consent Agenda on the same night. He stated that there is no reason to have but one meeting, a RCM, as the SS agenda items are the same as the RCM agenda items. He stated that he resents voting on the same issues on the same night. This is not a way to run a government. The issues passed tonight were important and Council was not able to digest them.

Councilmember Fisher stated two issues were not voted on tonight. He questioned why this is not being tried. Upon a question by Councilmember Fisher, City Attorney Mary Mirante Bartolo stated that pursuant to the Revised Code of Washington (RCW), the legal requirement is a minimum of one Council meeting a month. Council has exceeded that regulation. Councilmember Fisher stated that the new schedule does not cut out any meetings, just putting them at a different time.

Councilmember DeHan reiterated Councilmember Fisher's comments as to the two items not passed tonight. He added that the current policy states that it only takes one vote to keep an item off the consent agenda. Any one Councilmember who disagrees with having an item go to the consent agenda can make sure that does not happen just by stating so at the SS. Also, any one Councilmember who does not want an item left on the consent agenda can opt to have it taken off and reconsidered as new business. There is also a Council majority that can actually refer an item to a future SS or RCM or committee. He also added that March 23, prior to the new schedule, there was an issue that came up for the first time at a SS. That issue was passed under the Consent Agenda at the March 23 RCM after being discussed at the March 23 Special SS. He suggested that the new Council schedule be tried and if it does not work, go back to the past schedule.

Councilmember Shape stated that the last two meetings have shown that the new schedule can work, reiterating Councilmember DeHan's comment that one Councilmember can remove an item from the consent agenda.

NEW BUSINESS (Continued):

Discussion of Council Meeting Procedures (Continued): Councilmember Wythe stated that there is a benefit with the new schedule, allowing the Council time to better connect with the community. The Council's intention was not to condense the meetings or enact laws more quickly. He suggested that SS items be sent to the following RCM Consent Agenda in two weeks in order to study the items, but if there is a time sensitive issue, that it be able to go to that same day's RCM.

Councilmember Brennan stated that he will never agree to put anything on the Consent Agenda.

Mayor Hansen stated that this new schedule was passed by Majority. The Council has to follow the RCW and Robert's Rules of Order. He felt the schedule has been working for the last two weeks. He suggested that the new schedule be tried and if it does not work, bring it back for discussion of a change in the schedule.

Councilmember DeHan stated that, for clarification, this item is up for discussion, not reconsideration. So, while a member in the minority cannot bring this issue back up for reconsideration, all Councilmembers can participate in a discussion. Second, in regard to a change in policy, the current policy gives us the widest latitude for either considering an item at the present time or putting it off to some time in the future. He suggested Council try this schedule for a period of time and if it does not work then it can be changed.

Mayor Hansen stated that the City has a request from the Washington Native Plant Society for a proclamation declaring May 24 through 30 as Native Plant Appreciation Week. Council concurred.

CITY MANAGER'S COMMENTS: City Manager Bruce Rayburn had the following items of business: 1) Public Works Director Don Monaghan, after 14 years, is retiring June 30; and 2) Emergency Management Workshop for Elected Officials to be held at the Marriott Hotel Monday, May 3, 2004 from 8:30 to 11 a.m. Some of the senior staff plan to attend. Mayor Hansen asked Councilmember Fisher to attend.

CITY COUNCIL COMMENTS: Councilmember Fisher requested that Chief of Police Services Scott Somers give Council an update on the police as he has done in past years. He stated that the fire stations need to be addressed. They are obsolete. This issue should be put before the public and explain the need for fire protection.

Deputy Mayor Anderson stated that she is sorry to see Mr. Monaghan go. Police Officer Hank Sherwood is also retiring in June. She requested some sort of recognition for Mr. Sherwood.

Councilmember Shape stated that he received a letter regarding petition to sign Tim Eyman's latest initiative. The City needs to be thinking about what we are going to do if it passes and be prepared to pass the message to the citizens about what services they will be giving up if it does pass.

Councilmember Brennan stated that Mr. Monaghan came to us when the City incorporated. He congratulated Mr. Monaghan on 14 wonderful years to the City and its citizens.

Councilmember DeHan stated that during the Transportation & Public Works (T&PW) meeting, Mr. Monaghan brought to them an opportunity for a tour to review some code enforcement items within the City as well as some capital improvement projects and possibly some economic development. He also thanked everyone for the get well greetings while he was in the hospital.

ADJOURNMENT:

MOVED BY ANDERSON, SECONDED BY DEHAN TO ADJOURN THE REGULAR MEETING OF THE SEATAC CITY COUNCIL AT 8:14 P.M.

MOTION CARRIED UNANIMOUSLY.